

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
SPRINGFIELD DIVISION

BLACKSTONE MEDICAL, INC.,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION
)	NO. 08-CV-30145-MAP
OSIRIS THERAPEUTICS, INC.,)	
)	
Defendant.)	

MOTION TO INTERVENE AS OF RIGHT

Pursuant to Fed. R. Civ. P. 24(a), NuVasive, Inc. (“NuVasive”) moves to intervene as of right in the above-captioned matter. In support of this motion, NuVasive states the following:

1. The “Original Complaint” of plaintiff Blackstone Medical, Inc. (“Blackstone”) seeks to enjoin defendant Osiris Therapeutics, Inc. (“Osiris”), pending the outcome of arbitration, from closing upon, or otherwise carrying out, Osiris’s agreement to sell its Osteocel business to NuVasive. Original Complaint ¶ 1.

2. Osiris’s planned sale of its Osteocel business to NuVasive is the transaction that is the subject of this action. NuVasive, as the purchaser under the sale agreement, has an interest relating to this transaction. Disposition of this action may, as a practical matter, impair or impede NuVasive’s ability to protect its interest.

3. NuVasive is therefore entitled to intervene in this action as of right under Fed. R. Civ. P. 24(a).

4. NuVasive will timely file a responsive pleading to the Original Complaint as if it were served upon NuVasive on the date it was filed with the Court.

WHEREFORE, NuVasive requests that its Motion to Intervene be granted.

Respectfully submitted,

NUVASIVE, INC.

By its attorneys,

/s/ Bruce E. Falby

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Dated: July 24, 2008

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing ("NEF") and paper copies will be sent to those indicated as non-registered participants on July 24, 2008.

/s/ Bruce E. Falby

Bruce E. Falby